

Maine Revised Statutes
Title 36: TAXATION
Chapter 371: MINING EXCISE TAX

§2855. DEFINITIONS

For the purposes of this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1981, c. 711, §10 (NEW).]

1. The code.

[1987, c. 504, §3 (RP) .]

2. Commencement of mining. "Commencement of mining" means when the mine is opened and in the process of development, and shall be deemed to occur when whichever of the following first occurs:

A. The surface soil is broken in order to facilitate or accomplish the extraction or removal, within 12 successive calendar months, of more than 1,000 cubic yards from the earth of a mineral, top soil or other solid matter or material naturally lying over the minerals, except in connection with exploratory activity; or [1981, c. 711, §10 (NEW).]

B. Construction or reconstruction is commenced on fixtures, buildings or surface improvements, to be used in connection with mining. [1981, c. 711, §10 (NEW).]

[1981, c. 711, §10 (NEW) .]

3. Exploratory activity. "Exploratory activity" means all activities undertaken by the owner or any other person for the purpose of determining the existence of minerals or the quantity, quality or character of the minerals or feasibility of mining those minerals. These activities may include, without limitation: Testing and evaluation of the land and subsurface; taking soil and stream sediment samples; drilling on the land including, without limitation, bulk sample drilling; bulk sample excavation; performance of geophysical tests; and activities incidental to the foregoing; notwithstanding that the activity may involve the use of equipment on the land, may alter the character and appearance of the land or may result in disturbance of the land, including, without limitation, the creation of trails or roads, removal of trees, the planting of new vegetation or the taking of other measures to prevent soil erosion, or the marking of sample holes.

[1981, c. 711, §10 (NEW) .]

4. Facilities and equipment. "Facilities and equipment" means all mining property, excluding land and mineral products.

[1981, c. 711, §10 (NEW) .]

5. Gross proceeds. "Gross proceeds" means a mining company's federal gross income from mining with respect to a mine site, as defined in Section 613 of the code.

[1981, c. 711, §10 (NEW) .]

6. Land. "Land" means all real estate and all natural resources and any interest in or right involving that real estate or natural resources including, without limitation, minerals, mineral rights, timber, timber rights, water and water rights. "Land" does not include improvements constructed, placed or located within a mine site, such as buildings, structures, fixtures, fences, bridges, dikes, canals, dams, roads or other improvements within a mine site.

[1981, c. 711, §10 (NEW) .]

7. Mine site. "Mine site" means the entire contiguous area owned, leased or otherwise subject to the possessory control of a mining company within which mining or activities incidental thereto, occur or may reasonably be expected to occur.

A. The mine site includes, without limitation, the contiguous area in which are located or reasonably may be expected to be located: The excavation; tailings, waste rock or overburden storage areas; mills; conveyors; concentrators; crushers; screens; pipes; canals; dams; ponds; lagoons; ditches; roads; access roads; utility facilities or equipment; pollution control facilities; railroad tracks or sidings; administrative or other buildings; or improvements, structures, rights-of-way or easements appurtenant or related to any of the foregoing. [1981, c. 711, §10 (NEW) .]

B. The mine site shall be determined according to section 2865. [1981, c. 711, §10 (NEW) .]

[1981, c. 711, §10 (NEW) .]

8. Mineral products. "Mineral products" means all unextracted and extracted minerals and all products derived therefrom by mining.

[1983, c. 776, §4 (AMD) .]

9. Minerals. "Minerals" means all naturally-occurring metallic minerals.

[1981, c. 711, §10 (NEW) .]

10. Mining. The term "mining" has the following meanings.

A. "Mining" means:

(1) The extraction of minerals from the ground; or

(2) Processes used in the separation or extraction of the mineral or minerals from other material from the mine or other natural deposit, including, but not limited to: Crushing; grinding; beneficiation by concentration (gravity, flotation, amalgamation, electrostatic or magnetic); cyanidation; leaching; crystallization; or precipitation or processes substantially equivalent to or necessary or incidental to any of the foregoing; but not including electrolytic deposition; roasting; thermal or electric smelting; or refining. [1981, c. 711, §10 (NEW) .]

B. Mining does not include exploratory activity. [1981, c. 711, §10 (NEW) .]

[1981, c. 711, §10 (NEW) .]

11. Mining company. "Mining company" means a person who engages in mining in the State.

[1981, c. 711, §10 (NEW) .]

12. Mining property. "Mining property" means:

A. All real estate on, under, within or comprising a mine site; and [1981, c. 711, §10 (NEW) .]

B. All tangible personal property on, under or within a mine site, or on route to or from a mine site, or being transported to or from or destined to or from a mine site, and which is owned, leased or otherwise subject to possessory control by a mining company. [1981, c. 711, §10 (NEW).]

C. Mining property does not include:

- (1) All property which is not mineral products and is not primarily used or held for use in connection with mining or the business of mining at a mine site, or any activity necessary or incidental to or in support of mining or the business of mining engaged in at a mine site; or
- (2) Those vehicles upon which state excise taxes are paid for the current registration period pursuant to chapter 111. [1983, c. 776, §5 (AMD).]

[1983, c. 776, §5 (AMD) .]

13. Municipality. "Municipality" means a city, town or plantation.

[1981, c. 711, §10 (NEW) .]

14. Net proceeds. "Net proceeds" means a mining company's federal taxable income from the property with respect to a mine site (computed without allowance for depletion as defined in Section 613 of the code) adjusted as follows.

A. The following deductions are allowed in addition to those allowed in computing taxable income from the property under the code:

- (1) Cost depletion as would be allowed under Section 611 of the code without regard to percentage depletion;
- (2) Exploration and development costs as defined in Sections 616 and 617 of the code. Exploration and development costs incurred prior to the commencement of mining must be recovered proportionately over the life of the mine in the same manner as that provided in Section 611 of the code with respect to cost depletion. Exploration and development costs incurred after the commencement of mining must be recovered in the year incurred;
- (3) Net operating loss deductions as defined in Section 172 of the code, but not including the exclusions under paragraph B; and
- (4) Reasonable accruals for all reclamation, restoration and shut-down costs required by state or federal laws, regulations or permits. These accruals must be made on a proportionate basis over the accrual period. [1993, c. 395, §18 (AMD).]

B. The following may not be allowed as deductions:

- (1) Property taxes paid that are allowed as a credit against the tax provided by this chapter;
- (2) The tax provided by this chapter; and
- (3) Percentage depletion as allowed under Section 613 of the code. [1993, c. 395, §18 (AMD) .]

[1993, c. 395, §18 (AMD) .]

15. Tax year. "Tax year" means an annual accounting period ending on the last day of the month of the period used by the mining company as its taxable year for federal income tax purposes.

[1981, c. 711, §10 (NEW) .]

16. Termination of mining. "Termination of mining" means, and shall be deemed to occur on March 31st of any year if:

A. The mining company has permanently abandoned mining during the previous 12 months; or
[1981, c. 711, §10 (NEW).]

B. During the previous 2 years, there has been:

(1) Extraction or removal from the earth or sale of less than 1,000 cubic yards of minerals, top soil, other solid matter or material naturally lying over the minerals; and

(2) No construction or reconstruction of fixtures, buildings or surface improvements which are mining property. [1981, c. 711, §10 (NEW).]

[1981, c. 711, §10 (NEW) .]

17. Value of facilities and equipment. "Value of facilities and equipment" means the basis to the owner as defined in Section 1012 of the code for all facilities and equipment:

A. With a useful life beyond one year at the date of acquisition; and [1981, c. 711, §10 (NEW) .]

B. Which are, on the last day of the tax year:

(1) On, under or within a mine site; or

(2) Within the State and on route to or from a mine site, or being transported to or from or destined to or from a mine site. [1981, c. 711, §10 (NEW) .]

[1981, c. 711, §10 (NEW) .]

SECTION HISTORY

1981, c. 711, §10 (NEW). 1983, c. 776, §§4,5 (AMD). 1985, c. 535, §5 (AMD). 1987, c. 504, §3 (AMD). 1993, c. 395, §18 (AMD).

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